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NOTICE OF ALLOWANCE AND FEE(S) DUE

22852

7590

08/20/2010

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

EXAMINER

DEXTER, CLARK F

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 08/20/2010

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,414	11/02/2006	Marta Lago-Arenas	02804.0075	2806

TITLE OF INVENTION: CUTLERY SET ASSEMBLY

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	11/22/2010

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. **PROSECUTION ON THE MERITS IS CLOSED.** THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN **THREE MONTHS** FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. **THIS STATUTORY PERIOD CANNOT BE EXTENDED.** SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: **Mail** **Mail Stop ISSUE FEE**
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

22852 7590 08/20/2010

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Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Marta Lago-Arenas

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TITLE OF INVENTION: CUTLERY SET ASSEMBLY

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nonprovisional	NO	\$1510	\$300	\$0	\$1810	11/22/2010

EXAMINER	ART UNIT	CLASS-SUBCLASS
DEXTER, CLARK F	3724	030-147000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2
3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
☐ Publication Fee (No small entity discount permitted)
☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

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Date _____

Typed or printed name _____

Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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EXAMINER	
DEXTER, CLARK F	

ART UNIT	PAPER NUMBER
3724	

DATE MAILED: 08/20/2010

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 146 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 146 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability**Application No.**

10/573,414

Applicant(s)

LAGO-ARENAS, MARTA

Examiner

Clark F. Dexter

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the response filed on September 22, 2009.
2. ☒ The allowed claim(s) is/are 1-5,7-9,12-19,23,24,26 and 28-31.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date ____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date ____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other ____.

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Arthur Garrett on August 3, 2010.

2. The application has been amended as follows:

In the Claims

Claims 20-22 have been canceled.

The status identifier of each of claims 9, 13 and 17 has been changed from "(Withdrawn)" to --(Original)--.

Claims 1 and 2 have been rewritten as follows:

-- 1. (Currently amended) A cutlery set assembly comprising at least a first and a second item of cutlery made of resilient plastics material, one of said items of cutlery being a knife having a blade, wherein each item of cutlery has a cylindrical handle and a head, and wherein the handles are shaped such that they can be nested with each other and wherein, when in such a nested condition, the heads of the items

are adjacent one another at a same end of the assembly and the handle of the first outermost item extends outside of and more than half way around the handle of the second item, thereby grasping the handle of the second item, whereby the items are held together in firm engagement in the nested condition.

2. (Currently amended) A cutlery set assembly as claimed in claim 1, further comprising which includes a third item of cutlery and wherein, when in the nested condition, the handle of the second item extends outside of and more than half way around the handle of the third item thereby grasping the handle of the third item, whereby the second and third items are held together in the nested condition.--.

Claim 7 has been rewritten as follows:

-- 7. (Currently amended) A cutlery set assembly as claimed in claim 1, wherein the handle of the knife tapers towards an end of the blade of the knife to expose a sharp edge of the blade.--.

Claim 14 has been rewritten as follows:

--14. (Currently amended) A cutlery set assembly as claimed in claim 1, wherein a diameter of an outside of the handle of the second item is greater than an internal diameter of a hollow handle of the first ~~first, outermost~~ item when the handles are in an unnested condition.--.

Claim 16 has been rewritten as follows:

-- 16. (Currently amended) A cutlery set assembly as claimed in claim 1, wherein the resilient plastics material is polypropylene.--.

Claim 23 has been rewritten as follows:

-- 23. (Currently Amended) A cutlery set assembly comprising a first, a second and a third item of cutlery made of resilient plastics material, wherein each item of cutlery has a cylindrical handle and wherein the handles are shaped such that they can be nested with each other and wherein, when in the nested condition, the handle of the first item ~~first, outermost, item~~ extends outside of and more than half way around the handle of the second item ~~second, next inner, item~~ thereby grasping the handle of the second item, whereby the first and second items are held together in the nested condition, and the handle of the second item extends outside of and more than half way around the handle of the third item ~~third, innermost, item~~ thereby grasping the handle of the third item, whereby the second and third items are held together in firm engagement in the nested condition.--.

Claims 28-31 have been rewritten as follows:

-- 28. (Currently amended) A cutlery set assembly comprising a spoon, a fork and a knife having a blade as items of cutlery and each made of resilient plastics material wherein each item of cutlery has a cylindrical handle, wherein the handles are shaped such that they can be nested with each other and wherein, when in such a

nested condition, the handle of ~~an outermost~~ one of the items extends outside of and more than half way around the handles of ~~an inner~~ the other items thereby grasping the handle of one of the other ~~[[inner]]~~ items, whereby the items are held together in the nested condition, wherein the knife has a rib forming an extension of the blade that extends along an inside of a hollow handle of the knife and wherein the handles of the spoon and fork each have a slit running along the length of its handle and the slit of the spoon handle lies in register with the slit of the fork handle when the handles thereof are nested with each other so that the slits receive the rib of the knife, the handles of the fork and spoon being nested within the handle of the knife.

29. (Currently amended) The cutlery set assembly as claimed in claim 28, wherein a head of at least one of the spoon and the ~~and/or~~ fork has a thicker cross-section than a cross-section of ~~[[the]]~~ its corresponding spoon handle and ~~[[/or]]~~ fork handle.

30. (Currently amended) A cutlery set assembly comprising a first, a second and a third item of cutlery made of resilient plastics material, wherein each item of cutlery has a cylindrical handle and wherein the handles are shaped such that they can be nested with each other and wherein, when in the nested condition, the handle of the first item ~~first, outermost, item~~ extends outside of and more than half way around the handle of the second item ~~second, next inner, item~~ thereby grasping the handle of the second item, whereby the first and second items are held together in the nested

condition, and the handle of the second item extends outside of and more than half way around the handle of the third item ~~third, innermost item~~ thereby grasping the handle of the third item, whereby the second and third items are held together in the nested condition, wherein the first item is a knife having a blade and the second and third items each have a slit running along the length of their handles and wherein the blade of the knife is located in the slits of the second and third items when the items of the cutlery are in the nested condition, and wherein the blade of the knife includes a rib joined to and extending along an inside of the handle of the knife, and the rib is located in the slits of the second and third items when the items of cutlery are in a nested condition.

31. (Currently amended) A cutlery set assembly comprising at least a first and a second item of cutlery made of resilient plastics material, one of said items of cutlery being a knife having a blade, wherein each item of cutlery has a cylindrical handle and a head, at least the knife handle being hollow, and wherein the handles are shaped such that they can be nested with each other and wherein, when in such a nested condition, the heads of the items are adjacent one another at a same end of the assembly and the handle of the first ~~a first outermost~~ item extends outside of and more than half way around the handle of the second item, thereby grasping the handle of the second item, whereby the items are held together in the nested condition, wherein at least the second item ~~one of the items~~ of cutlery has a slit running along the length of its ~~[[the]] handle of said at least one item~~, wherein the knife has a rib forming an extension of the blade and being joined to, and extending along, an inside of the ~~[[a]]~~ hollow

handle of the knife, and wherein in the nested condition, the rib of the knife is located in the slit extending along the handle of at least the second ~~the at least one~~ item of cutlery.--.

In the Specification

Page 2, lines 24-27 have been deleted.

Page 3, lines 15-17 have been deleted.

Remarks

3. The above changes to claims 1 and 31 adding limitations directed to the heads of the cutlery items have been added to clearly distinguish the claimed invention over the prior art, particularly Yakligian, pn 1,030,756. The other changes to the claims have been made to further clarify the claims, particularly with respect to 35 USC 112, and to correct informalities. The portions of the specification listed above have been deleted because they are redundant and/or inaccurate regarding the prior art patent being described.

Further, the Examiner proposed that claims 20-22 directed to the knife be canceled in view of the newly cited prior art including German Publication 23 44 806. Applicant agreed to cancel these claims without prejudice to expedite matters in the present application.

Further, due to the allowability of claim 1, **the restriction requirement has been withdrawn**, and withdrawn claims 9, 13, 14, 16 and 17 have been rejoined.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-4505. The examiner can normally be reached on Mondays, Tuesdays, Thursdays and Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on (571)272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Clark F. Dexter/
Primary Examiner, Art Unit 3724**

cfd
August 3, 2010